



***AZ POST***  
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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **March 2006 and April 2006**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

**March 2006 and April 2006**

**CASE NO. 1**

**SEX ON DUTY and MALFEASANCE**

Deputy A met a woman on a telephone chat line. She mentioned that she had been arrested for domestic violence. The deputy ran her name through a department computer (not ACJIS) to verify what she had said. This is against department policy. He began a relationship with her. About six months into the relationship, Deputy A stopped by her home while on duty to pick up a Father's Day card she had for him. They had sex during that visit. About three months after the visit, the woman had the deputy's department issued cell phone and she would not give it back. He threatened to make a theft report. She said if he did she would tell the department about their sex on duty. Deputy A wrote his supervisor a memorandum that fully and completely disclosed his misconduct. The deputy resigned the next day. The Board adopted a consent agreement calling for a six month suspension retroactive to the date of his resignation for malfeasance in office.

**CASE NO. 2**

**MISFEASANCE AND MALFEASANCE**

Lieutenant B failed to promptly recognize and report that he had information relating to an active investigation. During an internal affairs investigation it became known that Lieutenant B had used his department issued laptop computer to copy hundreds of sexually explicit images. The Board adopted a consent agreement calling for a one year suspension of his peace officer certification for misfeasance and malfeasance in office.

**CASE NO. 3**

**MISFEASANCE AND MALFEASANCE**

Officer C had difficulty keeping up with his work. He asked his supervisor to give him a break from handling calls for several weeks so he could get caught up on a backlog of cases. The supervisor asked Officer C for a list of pending cases which he needed to complete. There were numerous instances of failure to properly document and process evidence and numerous instances of incomplete reports and supplements.

These failures jeopardized several cases. He resigned. The Board suspended his certification for one year prospectively for misfeasance and malfeasance in office.

#### **CASE NO. 4**

#### **MALFEASANCE**

Officer D wrote a civil traffic citation to the spouse of a department employee. Officer E, who was a mutual friend of the employee and the officer, prevailed upon him to dismiss the ticket. Despite both officers knowing it was against policy, Officer D agreed to ask the judge to dismiss the ticket claiming a poor memory of the event. The ticket was dismissed. The officers admitted the misconduct and accepted full responsibility before the Board. The Board suspended the peace officer certification of each officer for one year beginning on the date of the Board meeting, some 10 months after they were terminated from their department.

#### **CASE NO. 5**

#### **FALSE INFO TO OBTAIN CERTIFICATION**

Cadet F failed to list or disclose on both the POST Personal History Form and the agency employment application that he had been disciplined in the U.S. Army for assault. He also failed to disclose the discipline during his background interview or polygraph exam. The agency discovered the discipline about three weeks after Cadet E had been appointed. He stated that he had documentation of the discipline with him at the background interview, but he did not want to disclose it unless the agency found out about it. His employment was terminated and the Board denied him peace officer certification.

#### **CASE NO. 6**

#### **OFFENSE INVOLVING DISHONESTY**

Officer G filed a fraudulent document with the Arizona Motor Vehicle Division in order to obtain a tribal exemption from paying the vehicle property tax. He knew that he did not qualify for the exemption because he did not live on the reservation and he listed a reservation address on the form anyway. The Board revoked his certification for committing an offense involving dishonesty.

#### **CASE NO. 7**

#### **SEX ON DUTY**

Officer H was one of two officers who were the subject of a complaint that they had sex on duty with the complainant. He was honest and admitted that there were two such encounters on duty. The agency terminated his employment and the Board suspended his certification for six months from the date of termination for malfeasance in office.

#### **CASE NO. 8**

#### **MALFEASANCE**

Officer I maintained a close personal friendship with a renowned international drug trafficker. After the drug trafficker was shot execution style in Mexico, questions arose about her involvement with him. The department's policy forbade associating with a known criminal. Evidence at a POST hearing revealed that she had accepted cash gifts from him. He provided her with a cellular telephone with walkie-talkie capability so they could call each other. This was an additional phone to her personal and agency cell phones. She told a coworker that he gave her a truck. The drug trafficker had lived in Mexico as he had an outstanding federal warrant in the United States. Border crossing records showed that Officer I's truck crossed into Mexico 33 times in a four month period. The Board adopted the Findings of Fact and Conclusions of Law of the independent Administrative Law Judge and revoked her certification for malfeasance in office and for conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

**CASE NO. 9****NO MISCONDUCT**

Officer J was accused of having sex with a woman on duty and then lying about it to internal affairs. The matter went to a hearing before an independent Administrative Law Judge (ALJ) of the Office of Administrative Hearings. The ALJ found that the woman was not credible and made no finding of misconduct on the part of Office J. The Board adopted the findings and conclusions of the ALJ and dismissed the Complaint.

**CASE NO. 10****ASSAULT**

Officer K punched his wife in the stomach causing an acute contusion to her abdominal wall. He was acquitted at a criminal trial on the assault. The POST Complaint alleging assault and malfeasance in office went to a hearing before an independent Administrative Law Judge (ALJ) of the Office of Administrative Hearings. The ALJ found assault and the Board revoked Officer J's certification for the commission of an offense involving physical violence and malfeasance in office.

**CASE NO. 11****DISHONESTY AND WITNESS TAMPERING**

Officer L and her boyfriend, a fellow officer, were arguing when her hand made contact with his face. She called a friend and told her she hit him. He called a supervisor and said she punched him. Officer K steadfastly contended the contact was accidental throughout the IA investigation. The boyfriend changed his story several times, between accidental contact and purposeful hit. When the IA investigation began, Officer K was ordered verbally and in writing not to discuss the incident with anyone. She was standing at her friend's desk when the call came in from IA to report for an interview. Officer K took the friend into the restroom to talk because she feared the desk area was bugged. She asked her friend not to tell IA that she had hit her boyfriend. The friend reported the conversation to IA. Officer L was later interviewed and asked if she had talked to anyone about the investigation. She lied to IA, after Garrity admonitions, during two separate interviews and claimed she had not had such a conversation. She entered into a consent agreement in which she admitted the lies to IA and to trying to influence the witness. The Board revoked her certification for malfeasance in office.

**CASE NO. 12****DISHONESTY**

Deputy M was not truthful to a supervisor when he denied allowing a subordinate to view his personnel file. He did inform the supervisor that he had told the subordinate about all of the information in the file and he was forthright during an internal affairs investigation of the matter. The Board adopted a consent agreement calling for a 60 day suspension of peace officer certification.

**CASE NO. 13****FALSIFYING ACTIVITY**

Officer N was in a seriously dysfunctional squad where the common practice was to appear unavailable for calls as often as possible. She admitted to falsifying her daily activity reports by padding the time it took her to complete calls, not documenting meal breaks and making up MDT screens that would show her as busy when she was not. The result of the falsification was that calls for service and calls for back-up went unanswered. The Board found the failure of the supervisor to be a contributing factor to the misconduct and found that Officer N's truthfulness during the internal affairs interview was a mitigating fact. The Board suspended Officer L's peace officer certification for a period of two years for malfeasance in office.

On March 15, 2006, and April 19, 2006, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer engaged in an inappropriate and sexually charged conversation with a female citizen.
- An officer had two checks returned for insufficient funds.
- An officer struck a restrained prisoner in the face in response to an attempt by the prisoner to jab him with a pen.
- A deputy received a citation for disorderly conduct/noise because he had a loud party.
- A Commander denied recalling a certain conversation three years after the fact.
- An officer had sex with a consenting adult woman and showed the video of it to fellow officers in the briefing room, five years before the report to POST.
- An officer arrested the wrong person based on inaccurate warrant information.
- An officer failed to maintain his caseload and keep up on reports in a timely fashion.
- A recruit committed DUI.